

## Message Text

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ACTION EB-08

INFO OCT-01 EUR-12 ISO-00 COME-00 OES-06 HEW-04 L-03

CIAE-00 INR-07 NSAE-00 AF-10 ARA-06 EA-07 NEA-10

IO-13 TRSE-00 /087 W

-----261000Z 121752 /17

R 260841Z APR 77

FM AMEMBASSY BUDAPEST

TO SECSTATE WASHDC 8367

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FOR EB/IFD/Ryan; PATENT OFFICE -- COMMISSIONER DANN FROM  
USDEL -- WINTER

E.O. 11652: N/A

TAGS: OCON, OTRA, WIPO, HU

SUBJECT: BUDAPEST DIPLOMATIC CONFERENCE -- MICROORGANISMS TREATY

1. BUDAPEST DIPLOMATIC CONFERENCE FOR THE CONCLUSION OF  
A "TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT  
OF MICROORGANISMS FOR THE PURPOSE OF PATENT PROCEDURE"  
OPENED ON APRIL 14 WITH NUMBER OF HIGH-LEVEL HUNGARIAN  
OFFICIALS IN ATTENDANCE; INCLUDING MINISTER OF HEALTH  
(SCHULTHEIZ), DEPUTY MINISTER OF THE MINISTRY OF FOREIGN  
AFFAIRS (SZARKA), AND PRESIDENT OF THE COUNCIL OF THE  
CITY OF BUDAPEST (SZEPEVOLGYI). AT REQUEST OF DIRECTOR  
GENERAL OF WORLD INTELLECTUAL PROPERTY ORGANIZATION  
(WIPO), USDEL (TASNADI) AS PRESIDENT OF THE CONFERENCE.  
CHAIRMAN OF THE MAIN COMMITTEE, WHICH CARRIED OUT SUB-  
STANTIVE WORK OF CONFERENCE WAS DR. J. L. COMTE,  
ALTERNATE HEAD OF SWISS DELEGATION. USDEL SERVED ON  
DRAFTING COMMITTEE TOGETHER WITH FEDERAL REPUBLIC OF  
GERMANY, FRANCE, NETHERLANDS, AND U.K.

2. NO REPEAT NO POLITICAL PROBLEMS REGARDING ELECTION

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OF OFFICERS, ACCREDITATION, RESOLUTIONS, ETC. HAVE BEEN  
ENCOUNTERED TO DATE. DEMOCRATIC PEOPLES REPUBLIC OF  
KOREA ATTENDED SPORADICALLY AS OBSERVER DELEGATION BUT  
TOOK NO PART IN WORK OF CONFERENCE. CUBA, WHICH  
PREVIOUSLY HAD ATTENDED PREPARATORY EXPERTS' MEETINGS,  
DID NOT REPEAT NOT ATTEND.

3. MAJOR SUBSTANTIVE POINTS OF INTEREST TO USDEL ARE  
AS FOLLOWS:

A. ARTICLE 1 ("ESTABLISHMENT OF A UNION") --  
POSSIBILITY OF INTERGOVERNMENTAL ORGANIZATIONS, WHICH  
GRANT REGIONAL PATENTS, BECOMING PARTY TO TREATY WAS  
DROPPED BECAUSE OF OPPOSITION BY SOVIETS AND LACK OF  
SUPPORT BY WESTERN EUROPEAN DELEGATIONS, ESPECIALLY  
MEMBER STATES OF EUROPEAN COMMUNITY.

B. ARTICLE 5 ("EXPORT AND IMPORT RESTRICTIONS") --  
USDEL'S PROPOSALS TO MAKE THIS ARTICLE HORTATORY WERE  
ACCEPTED, NOTWITHSTANDING EASTERN EUROPEAN PROPOSALS  
FOR STRENGTHENING ORIGINAL TEXT CONTAINING A MANDATORY  
PROHIBITION AGAINST ANY NATIONAL IMPORT AND EXPORT  
RESTRICTIONS NOT BASED ON EITHER HEALTH OR ENVIRON-  
MENTAL CONSIDERATIONS.

C. ARTICLE 6 ("STATUS OF INTERNATIONAL DEPOSITORY  
AUTHORITY") -- THIS IS A KEY PROVISION IN THE TREATY  
SINCE IT ESTABLISHES REQUIREMENT THAT THE PERFORMANCE  
OF A RECOGNIZED INTERNATIONAL DEPOSITORY AUTHORITY BE  
GUARANTEED BY THE CONTRACTING STATE WHERE IT IS LOCATED.  
U.K. DELEGATION PROPOSED THAT THE CONTRACTING STATE  
WOULD BE REQUIRED ONLY TO ASCERTAIN THAT THE DEPOSITORY  
IS CAPABLE OF AND WILLING TO FULFILL THE OBLIGATIONS  
OF THE TREATY, AND ASSURE THE DIRECTOR GENERAL OF WIPO  
OF THESE FACTS. RECOGNITION OF THE DEPOSITORY WOULD BE  
CONFERRED ON THE BASIS OF SUCH ASSURANCE, WITHOUT ANY  
GUARANTEE OF PERFORMANCE BY THE STATE. USDEL, WITH  
STRONG SUPPORT FROM FRG AND SWITZERLAND, OPPOSED U.K.  
PROPOSAL AND SUPPORTED MAINTENANCE OF TEXT, BUT WE  
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AGREED TO SUBSTITUTE "ASSURANCE" FOR "GUARANTEE" SINCE  
LATTER WOULD SEEM TO BE ESPECIALLY TROUBLESOME TO U.K.  
THUS BASIC PRINCIPLE OF ARTICLE WAS MAINTAINED  
AND CONTRACTING STATE CONTINUES TO STAND BEHIND  
DEPOSITORY.

4. AS TO ARTICLE 17 ("SIGNATURE AND LANGUAGE OF THE  
TREATY"), SOVIETS AGREED TO FURTHER COMPROMISE PRO-  
POSAL OF DIRECTOR GENERAL AFTER EXTENDED DEBATE IN  
WHICH MOST WESTERN DELEGATIONS OPPOSED RUSSIAN AS  
AUTHENTIC TEXT. UNDER NEW APPROVED TEXT OF ARTICLE 17,  
TREATY "SHALL BE SIGNED IN A SINGLE ORIGINAL IN THE  
ENGLISH AND FRENCH LANGUAGES, BOTH TEXTS BEING EQUALLY  
AUTHENTIC". OFFICIAL TEXTS OF THE TREATY ARE TO BE  
ESTABLISHED BY THE DIRECTOR GENERAL TWO MONTHS AFTER  
THE DATE OF SIGNATURE OF THE TREATY, IN OTHER LANGUAGES  
IN WHICH THE WIPO CONVENTION WAS SIGNED (I.E., SPANISH  
AND RUSSIAN). OFFICIAL TEXTS IN ARABIC, GERMAN, ITALIAN,  
JAPANESE, AND PORTUGUESE LANGUAGES ARE ALSO TO BE

ESTABLISHED BY THE DIRECTOR GENERAL.

5. AT CONCLUSION OF DEBATES IN MAIN COMMITTEE AND ESTABLISHMENT OF BASIC TEXT OF TREATY, USDEL, INCLUDING BOTH PRIVATE SECTOR ADVISERS, AGREED THAT TREATY MEETS ALL BASIC POINTS IN U.S. POSITION AND U.S. SHOULD SIGN.

6. DRAFTING COMMITTEE CONCLUDED WORK SATURDAY EVENING. MAIN COMMITTEE WILL MEET TUESDAY AFTERNOON (APRIL 26) TO EXAMINE AND APPROVE TEXT OF TREATY AND REGULATIONS. PLENARY WILL MEET WEDNESDAY MORNING (APRIL 27) TO APPROVE FINAL TEXT. SIGNING CEREMONY TAKES PLACE ON THURSDAY (APRIL 28).  
MUDD

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## Message Attributes

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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009